Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/05480/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 5 June 2019	**On 12 July 2019**

Before

THE HONOURABLE MR JUSTICE FREEDMAN
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE CANAVAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

ELVIS MILKURTI
(ANONYMITY DIRECTION NOT MADE)

Representation:

For the Appellant: Mr L Tarlow, Home Office Presenting Officer
For the Respondent: Ms S Akinbolu, Counsel instructed by Malik & Malik Solicitors

DECISION AND REASONS

1. For the sake of continuity, we shall refer to the parties as they were before the First-tier Tribunal, although technically the Secretary of State is the appellant in the appeal before the Upper Tribunal.

2. The Secretary of State appeals the decision of the First-tier Tribunal Judge Cockrill (the judge) which was promulgated on 22 February 2019. The judge allowed the appeal against the Secretary of State's decision dated 23 February 2018 to refuse a human rights claim in the context of an

earlier decision to make a deportation order against him by virtue of Section 32(5) of the UK Borders Act 2007.

Background

3. The appellant entered the UK on 13 January 2000 aged 8 years old with his mother. His mother claimed asylum and included the appellant on her application as a dependant. The asylum claim was refused on 8 February 2000. On 7 February 2002 the appellant was granted exceptional leave to remain as the dependant of his mother until 8 January 2006. On 26 February 2008 he was granted discretionary leave to remain as the dependant of his mother until 26 February 2011. On 3 January 2012 he was granted indefinite leave to remain in the United Kingdom.

4. The appellant lives with his mother and younger brother. His mother and brother are both British citizens. The appellant did not apply at the same time as his mother and brother for such citizenship. He was busy supporting his family. The situation with the appellant's mother is that as a result of her experience in the Kosovan war she suffers from anxiety and depression. She would not return to the country. We were referred to a medical report of Dr Michael Seear dated 4 May 2001 in which in some detail he refers to what occurred to the appellant's mother in Kosovo and that is set out in detail which is not necessary to refer to in this judgment, but it explains why the mother would not return to Kosovo in any circumstances.

5. The appellant has been in a relationship with [AM], a British citizen, since 2015. They got engaged in 2017. Miss [M]'s family is supportive of their relationship.

The Conviction

6. On 15 August 2017 the appellant pleaded guilty to an offence of dangerous driving. There was a sentence of fourteen months immediate imprisonment imposed by the Crown Court on 20 October 2017 with the appellant being disqualified from driving for four years. There was no appeal against conviction or sentence. The nature of the offence is described in paragraphs 11 to 13 of the decision below:-

> *"11. The background to the index offence is that the Appellant had received a period of disqualification of six months for permitting another individual to drive without insurance. The events concerning the index offence took place on the afternoon of 17 May 2017. The Appellant was driving a vehicle in a busy part of North London. He came to appreciate that a police car was following him and in response the Appellant took off at speed in his BMW vehicle. The Learned Judge in his sentencing remarks at Wood Green Crown Court described the manner of the Appellant's driving as appalling. The police activated their sirens and their lights were illuminated to try to get the Appellant to stop.*

12. *The Appellant was chased through residential roads for about ten minutes, avoiding obstacles. He was driving well in excess of the speed limit of 20 miles per hour. The Learned Judge also observed that at one point the Appellant mounted the pavement. He commented that had a pedestrian been on that stretch of pavement at the time, or indeed if someone had emerged from their property, then they could have been killed or suffered life-threatening injuries.*

13. *It was really a matter of good fortune that no one was killed or injured as a result of this piece of driving. When the Appellant eventually stopped, he then ran off."*

7. On 22 January 2018 the appellant was served with a stage 1 deportation decision. On 26 January 2018 the appellant made representations that deportation would breach his right in respect of family and/or private life under Article 8 to the European Convention on Human Rights. On 23 February 2018 the appellant was issued with a decision to deport him and to refuse his human rights claim. There was then the appeal to the First-tier Tribunal in which the appellant contended that his deportation from this country to Kosovo would constitute a breach of those protected rights under the 1950 European Convention on Human Rights. He made reference to the relevant provisions of the Immigration Rules. They were set out in the decision at paragraphs 16, 17 and 21, that is the Immigration Rules at paragraphs A398(a) and (b) and 399(b) and 399A:-

*'**A398.** These rules apply where:*

(a) a foreign criminal liable to deportation claims that his deportation would be contrary to the United Kingdom's obligations under Article 8 of the Human Rights Convention; …

***398.** Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and*

…

(b) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months; … the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, the public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A.'

*'**399.** This paragraph applies where paragraph 398(b) or (c) applies if –*

…

(b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen or settled in the UK, and

(i) the relationship was formed at a time when the person (deportee) was in the UK lawfully and their immigration status was not precarious; and

(ii) it would be unduly harsh for that partner to live in the country to which the person is to be deported, because of compelling circumstances over and above those described in paragraph EX.2. of Appendix FM; and

(iii) it would be unduly harsh for that partner to remain in the UK without the person who is to be deported …'

*'**399A.** This paragraph applies where paragraph 398(b) or (c) applies if –*

(a) the person has been lawfully resident in the UK for most of his life; and

(b) he is socially and culturally integrated in the UK; and

(c) there would be very significant obstacles to his integration into the country to which it is proposed he is deported …'

Paragraph 399A(a) was said to have been met. However, it was not accepted that the Appellant was socially and culturally integrated. In making that argument reliance was placed upon the conduct of the Appellant in relation to this incident of dangerous driving. It was said that the incident put members of the public at risk of serious harm.

8. The judge reserved the decision and made findings and reasons at paragraphs 60 to 76 of the decision. The appellant accepted that he was a foreign criminal within Section 32 of the UK Borders Act 2007 on the basis that he had received a sentence of imprisonment of more than twelve months and thus there must be a deportation under Section 32(5) of the Act subject to the exceptions under Section 33. In the judgment at paragraph 60 the relevant exceptions were set out and in particular exception 1 is where removal of the foreign criminal in pursuance of the deportation order would breach:-

(a) a person's Convention rights; or

(b) the United Kingdom's obligations under the Refugee Convention.

This is not a case which triggered the 1951 Refugee Convention and accordingly the focus of attention is on the person's Convention rights.

9. In light of section 117C(5) of the Nationality, Immigration and Asylum Act 2002 (NIAA 2002) and paragraph 399(b) of the Immigration Rules, the focus of the hearing was on the relationship which the appellant has with [AM]. [AM] is a British citizen. They have had a close relationship for a

period of four years. They have not lived together because of the cultural expectations of their families so they both lived in their respective homes. Their relationship was formed in this country when the appellant was in this country lawfully and when his immigration status was not precarious. The judge accepted that it would be unduly harsh on [AM] to live in Kosovo due to her circumstances. It was accepted that this was a subsisting relationship and the issue between the appellant and the respondent was whether it was unduly harsh for her to live in the United Kingdom without the appellant.

10. The Judge pointed out in the decision that it was necessary to give the words 'unduly harsh' a restrictive meaning. That was apparent from the decision to which reference was made at paragraph 63 of the decision of *KO (Nigeria) & Ors v SSHD* [2018] UKSC 53. That case concerned the meaning of 'unduly harsh': see especially paragraphs 22, 27. At paragraph 27, the Supreme Court referred to the "authoritative guidance as to the meaning of 'unduly harsh'" being given by the Upper Tribunal (McCloskey J President and UT Judge Perkins) in *MK (Sierra Leone) v SSHD* [2015] UKUT 223 (IAC), [2015] INLR 563, para 46., a decision given on 15 April 2015. They referred to the "evaluative assessment" required of the tribunal.

11. The Judge referred to the elevated test of 'unduly harsh' at paragraph 74 of the decision, mirroring almost word for word the above mentioned paragraph 46 of the *MK* case approved in *KO (Nigeria)*. Paragraph 74 which read as follows:-

> *"In looking at this issue of unduly harsh, I carry out an evaluation of the consequences and impact of deportation on the Appellant. I am mindful that unduly harsh does not mean uncomfortable, inconvenient, undesirable or merely difficult, it poses a considerably more elevated threshold. Harsh, in this context, denotes something severe or bleak which is indeed, in my judgment, what would be the position for this Appellant it is the antithesis of pleasant or comfortable. The addition of the adverb 'unduly' raises an already elevated standard still higher. I have made the point that in my judgment the Appellant has shown that that standard is reached. I repeat the point that it would be unduly harsh on the partner."*

12. The conclusions of the Tribunal were that it was unduly harsh for [AM] to live in the United Kingdom without the appellant. The reasons for that are set out in the decision:-

> "*65. In the present appeal the Appellant does not have a child and his case rests upon the argument that he has a genuine and subsisting relationship with a partner who is in this country and is a British citizen. That point is formally accepted by the Respondent. It has also been accepted that that relationship was formed at a time when the Appellant's situation was not precarious, he was here lawfully having*

gained indefinite leave to remain. The test that is then set involves consideration of the words 'unduly harsh'. It is also acknowledged by the Respondent that it would be unduly harsh for the partner to have to go and live in Kosovo and so what falls for consideration is whether it would be unduly harsh for the Appellant's partner to remain here, but without the Appellant.

66. The situation that has been presented to me is that the Appellant and his partner have been in a perfectly genuine relationship for close on four years now. The impact of the Appellant's removal would of course, for practical purposes, so markedly interfere with that relationship as, in practice, to sever it. Whilst references are often made to modern methods of communication, it really cannot be said sensibly that the Appellant could maintain a relationship with his partner from Kosovo to any meaningful extent if they really were not permitted to see each other and therefore to enjoy physical time together to develop their relationship. I recognise that, as a couple, they are not living together, they are living with their respective families, but that does not mean that they should not have the opportunity to be able to enjoy their relationship and develop it by spending time together. I stress that the Respondent has acknowledged that the partner cannot realistically go to Kosovo and, therefore, I do consider that that period of physical separation would constitute circumstances that are not only harsh for the UK national partner, but I stress this in the specific circumstances of this Appellant's case, unduly harsh. We are dealing here with Kosovo and what is abundantly clear to me is that that is a country that no one wants to go to from either the Appellant's family or his partner's family. The consequence of that, of course, is that there would be physical separation of this couple and, in my judgment, that is plainly not supportable. The impact upon the partner would indeed be unduly harsh. I have made plain that the other criteria set within paragraph 399(b) are met.

67. I conclude therefore, as a matter of fact, that Exception 1 as set within the Rules is met by the Appellant. …".

13. The decision then went on to consider the application of the provisions of right to respect for private life in relation to the appellant. It is common ground that the appellant has lived more than half his life in the United Kingdom as a lawful resident. However, the challenge of the respondent was first, as to whether he was socially and culturally integrated in the United Kingdom; and secondly, as to whether there would be significant obstacles to his integration in Kosovo. In relation to the question as to whether the appellant was socially and culturally integrated in the United Kingdom the Judge said the following at paragraph 68:

> *"68. I really do not find any substance whatsoever in the Respondent's submission that the Appellant is not socially and culturally integrated. He has been here since the age of approximately eight. This is the country that he has known as his home. He speaks English fluently. His mother and sibling are here and I stress that they are themselves British citizens. Indeed, the position was that the Appellant could have himself become a British citizen had he made an appropriate application at the right time. Rather than doing so, in fact he concentrated on trying to develop his career. He was holding down two jobs and doing the best he could to support himself and providing a fund so that eventually he could purchase a property in this country. He has been educated in the United Kingdom. He has all his social ties in the United Kingdom. He is perfectly well culturally integrated in this country. He has worked here. He has paid taxes here. There is no question in my judgment, but that the Appellant is someone who has demonstrated that he is socially and culturally integrated. The very fact that he has committed a serious criminal offence by driving dangerously does not detract, and I stress from this, from that social and cultural integration."*

14. Having determined that the appellant was socially and culturally integrated into the United Kingdom, the Judge then went on to consider the issue as to whether there would be very significant obstacles to his integration into Kosovo which arises in relation to section 117C(4)(c) NIAA 2002 and paragraph 399A of the Immigration Rules. Paragraph 69 contains the key findings of the Tribunal in that regard. We quote paragraph 69 in full:-

> *"However, the critical issue that arises in relation to paragraph 399A is whether there would be very significant obstacles to his integration into Kosovo. That is not an easy question to answer. I recognise that the Appellant does not suffer from any noted mental health problems and physically he is in good health. However, the only country that he has really known is the United Kingdom and* ***it is very important indeed that it is appreciated the extent to which his family have turned their back on Kosovo because of what took place during the war. We have a situation, therefore, where neither the Appellant's mother nor his sibling would really be in a position to go to Kosovo to spend any time with the Appellant, that has been made abundantly clear.*** *The reality of the situation, therefore, is that* ***the Appellant would be expected to set up in life on his own in a country with which he has got really no meaningful links whatsoever.*** *He left when he was seven or eight years old and he has made it clear that English is his first language now and England is his*

> *home.* ***He would be deprived, and this is very important when looking at this particular Appellant's situation, of the sort of normal family contacts which might exist in other cases where family members still live in the old country of nationality, that is conspicuously absent in this case.*** *I do consider, therefore, that when one looks at how he could integrate into Kosovo it is very hard to see how he would do so successfully. I recognise that he could gain work, but* ***he would be on his own. He would not be with his partner, he would not be with his immediate family and these are people who are meaningful figures in his life. The reality, therefore, is that he would face not just significant obstacles but, as I categorise it, very significant obstacles to his integration into Kosovan society.*** *In these circumstances, and I stress that they are specific, I am also satisfied that the test set in paragraph 399A is indeed met by this Appellant."* [emphasis added]

15. The conclusion therefore was that there would be very significant obstacles to the integration of the appellant into Kosovo, bearing in mind that England had become his sole home from the very early age of 8 years old. In view of the matters to which I have mentioned above, which were set out in the report of Dr Michael Seear, there was no possibility of his mother coming to visit him. In the above paragraph 69, the Judge was emphasising the family turning its back on Kosovo because of what took place during the war, and so neither his mother nor his sibling would be in a position to go to Kosovo. He did not have the sort of normal family contacts which might exist in other contacts in the old country of his nationality. He would not be with his partner nor would he be with his immediate family, and therefore would face not just significant obstacles but very significant obstacles to his integration in Kosovan society.

16. For these reasons, the Tribunal considered that exception 1 applied and/or exception 2 applied with the effect that the appeal against the making of the deportation order should be allowed on human rights grounds. The Tribunal also, having considered that the matter fell within exception 1 and exception 2, considered that if it was wrong in relation to either or both of these analyses, it considered whether there were 'very compelling circumstances' to outweigh the public interest in deportation.

17. We now refer to the grounds of appeal. The first ground was that there was said to be a material misdirection of law. It was said that the Tribunal had erred in considering that the appellant's offence was at the lower end of the scale at paragraph 73 of the decision, in particular the respondent emphasised the finding of the Tribunal that *"I note how the appellant's criminality falls towards the lower end of that scale because he received a sentence of fourteen months' imprisonment"*. The submission was made that that was a mischaracterisation. Having regard to the severity of the offence of the appellant our attention was drawn to the sentencing remarks of Mr Recorder Hurst pointing out how serious the offence was

and how there was no alternative other than to make an immediate custodial sentence. It was then submitted that the finding infected the subsequent assessment of the public interest in the appellant's deportation. It seems to us that what is referred to, is the lower end of the scale of the type of offences where deportation questions arise. That is not a misdirection. It was a finding that was open to the judge to make on the evidence. However, if it had been a misdirection, it would not have been material on the basis that exception 1 or exception 2 applies.

18. We now refer to ground 2 which is an alleged failure to give adequate reasons for findings on a material matter. The judge found that it would be unduly harsh on [AM] and the submission is made that the finding was not supported by any evidence and it is also said that they did not live together and that the partner is in employment and is therefore able to support herself and therefore not reliant on the appellant and that the basis for the finding seems to be that the partner will not travel to Kosovo. As regards the finding that the result of the appellant's deportation would sever the relationship it was submitted that this did not meet the threshold of undue harshness.

19. In our judgment the Tribunal did have evidence from which it was able to come to the conclusion which it did. [AM] was a qualifying partner. They have had a close relationship over a period of four years. They became engaged in 2017, but have not lived together due to the cultural expectations of the families. [AM] could not go to live in Kosovo was because she had taken the responsibility of looking after her mother who is very unwell and her role in relation to her younger siblings is a very important one, particularly having regard to the illness of her mother. It is clear that the Judge considered all of this very carefully at paragraphs 66 and 67, to which reference has been made above. It is apparent from the material that was before the Judge that these findings were based upon the evidence before the Judge. The Judge heard the oral evidence of the appellant and of the partner. It heard a description of how heavily dependent on them her mother was on [AM] and it heard how close the relationship was over a period of four years, in particular at paragraph 48 the judge said the following:-

> *"The witness explained how she and the Appellant had been together for nearly four years. The Appellant had helped her emotionally, as well as physically. The witness does have a brother aged 20, a sister aged 18 and a brother aged 8. She takes on the responsibility of taking her younger brother to school. The Appellant will also assist as and when he can with picking up her younger brother from school. The Appellant has had a very good influence upon her younger brother."*

20. As we have set out before, it is also apparent from paragraphs 63 and 74 that the Tribunal carefully considered the meaning of the words unduly harsh and its decision on the facts was a proper application of the meaning of those words. This was a decision that was reasonably

available to the Tribunal on the evidence. It was not perverse or irrational such that no reasonable Tribunal could reach. In our judgment the appeal therefore on the basis of what is set out in paragraph 3 under the heading of second ground must fail.

21. We now refer to the second paragraph under ground 2 (paragraph 4). This contains a criticism of the Tribunal for weighing into the favour of the appellant the fact that he had not applied for British citizenship because he was busy working at the time. That is a matter which does not advance the matter in relation to the application of the exceptions. In any event, if that ground was being looked at by itself, there is nothing in that ground that takes this appeal any further and wisely the respondent has not developed it orally. The failures of the knowledge of life in the UK test were marginal failures.

22. In the third paragraph under ground 2 at paragraph 5, there is a criticism that the Tribunal had found that the appellant succeeded on private life grounds on the basis that very significant obstacles prevent his integration in Kosovo. The submission was made that since he was young and in good health and had work experience that he would be able to find work in Kosovo. It was said that he lived in Kosovo during his formative years and therefore would have some knowledge of the Albanian language and reference was made to some case law to the effect that the hurdle is high of very significant obstacles and is more stringent than simply something requiring a lack of close family ties.

23. In that regard the appellant's Counsel referred us in her skeleton argument to the case of *Kamara v SSHD* [2016] EWCA Civ 813 and paragraphs 14, 16 and 22 of that decision read as follows:-

> *"14. In my view, the concept of a foreign criminal's 'integration' into the country to which it is proposed that he be deported, as set out in section 117C(4)(c) and paragraph 399A, is a broad one. It is not confined to the mere ability to find a job or to sustain life while living in the other country. It is not appropriate to treat the statutory language as subject to some gloss and it will usually be sufficient for a court or tribunal simply to direct itself in the terms that Parliament has chosen to use. The idea of 'integration' calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.*
>
> *…*

> *16. … In my view, the Tribunal's decision is a careful and well-reasoned judgment, based on proper self-directions of law and leading to a conclusion which was clearly within the lawful parameters of legitimate evaluative judgment for the Tribunal on the facts of the particular case. It raises no special issue of principle.*
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> *…*
>
> *22. Turning, then, to Mr Waite's submission on the substantive merits of the Tribunal's decision, there is no proper foundation for it. The Tribunal was aware that Mr Kamara was a young man in good health and capable of working and obviously took those points into account as the background for its consideration of the case at paras. [66]-[71]. However, it regarded them as insufficient to cancel out the reasons it gave for finding that, as it set out there, there would be very significant obstacles to his integration into Sierra Leone. On a fair reading of the Tribunal's decision, it is not possible to infer that it failed to have regard to these aspects of the case. On the footing that it did have regard to them, Mr Waite did not suggest that the Tribunal's decision that the deportation of Mr Kamara to Sierra Leone would be in breach of his rights under Article 8 could be regarded as irrational or perverse."*

24. It seems to us that the relevant law is to be found in *Kamara*, a Court of Appeal decision. References to *Bossade (ss.117A-D-interrelationship with Rules)* [2015] UKUT 00415, which came before *Kamara*, was in respect of a person with different considerations from this appellant. In our judgment *Kamara* is the more recent case and is binding on us. It refers in particular to the fact that what the Tribunal has to do is it has to make an evaluative judgment on the facts of the particular case. In its approach to the directions of law relating to exceptions 1 and 2 and its judgment on the facts of the particular case, the court in *Kamara* at paragraph 16 (quoted above), concluded that the Tribunal's decision was careful and well reasoned based on proper self-directions of law within the parameters of a legitimate evaluative judgment on the facts of the case.

25. We have referred above to the factual findings at paragraph 69 in relation to the very significant obstacles. They are summarised in paragraphs 13 and 14 of the skeleton argument of the respondent, and we have come to the view that the decision is for all those reasons one that was amply available to the Tribunal below in a very full and well-reasoned judgment as regards the very significant obstacles to integration.

26. In so far as the grounds rely on what was said at paragraph 46 of the Upper Tribunal decision in *MK (Sierra Leone)* the argument is misconceived. In that paragraph the Upper Tribunal discussed the elevated threshold for the purpose of the 'unduly harsh' test outlined in section 117C(5) NIAA 2002 and paragraph 399 of the Immigration Rules. It

did not purport to discuss the test of 'very significant obstacles to integration' outlined in section 117C(4)(c) and paragraph 399A of the Immigration Rules. The relevant authority, as we have already identified, is *Kamara*.

27. Although the judge did not make specific reference to *Kamara*, it is apparent from the quoted paragraph 69 of the Judgment and the words "*The reality, therefore, is that he would face* ***not just significant obstacles but, as I categorise it, very significant obstacles*** *to his integration into Kosovan society."*[emphasis added], that he applied the relevant principles in practice and was aware of the stringent nature of the test.

28. The Tribunal took into account the fact that the appellant is fit and able to work. However, it was open to the Tribunal to also consider the compelling and compassionate circumstances surrounding the war in Kosovo. It was open to the Tribunal to take into account the fact that the appellant was forced to leave the country with his family at a young age due to the persecution of Kosovan Albanians at the time. The war is the reason why he has no family or other connections remaining in Kosovo who could assist him to understand how to integrate into life there. The war is the reason why he has no experience of how to earn a living as an adult in Kosovo. The war is the reason why his partner and family would not feel able to return to visit him, which would leave him in a situation of long-term social isolation. It was open to the judge to evaluate the cumulative effect of these factors in assessing whether the appellant would face very significant obstacles to integration if returned to Kosovo. Another judge may have come to a different conclusion, but the Tribunal's findings were unarguably within a range of reasonable responses to the evidence. The decision in *Bossade* was made on a different set of facts and has little relevance to the circumstances of this case.

29. For these reasons we conclude that the Tribunal's assessment of the exceptions under paragraph 399(b) (section 117C(5) NIAA 2002) and paragraph 399A (section 117C(4)) did not involve the making of errors of law and were open to the Tribunal to make on the evidence.

30. Reference was made to the fact that in the decision the Tribunal went on to consider what would happen in the event that either or both of the exceptions failed. At paragraph 70 to 75 the Tribunal came to some alternative findings. Firstly, no challenge to this aspect of the decision was particularised in the grounds of appeal. Secondly, even if the judge erred in respect of his assessment of paragraph 398 (section 117C(6)) it would have made no material difference to the outcome of the appeal given that we have found that his findings relating to the exceptions to deportation are sustainable and did not involve errors of law.

31. It follows on the basis of the application of those exceptions 1 and 2 or either of them that the appeal must fail, and that none of the grounds are made out. We conclude that there was no error of law as regards those

exceptions, and the conclusions were reasonably available to the Tribunal based on the evidence. It follows that the decision of the First-tier Tribunal shall stand.

Notice of Decision

The First-tier Tribunal decision did not involve the making of material errors of law

The decision shall stand

Signed: MR JUSTICE FREEDMAN Date 09 July 2019